

R E M A R K S

Submitted herewith is a Declaration under 37 CFR 1.132 made by the inventor of the present application establishing commercial success as a secondary consideration of patentability for the presently claimed invention.

The Declaration (including Exhibits 1-3) is being submitted prior to a Final Office Action, and therefore is timely.

The enclosed Exhibits 1-3 include Exhibit 1 which is a book entitled "The Best Sold 30 from Japan." The "Hair Contact" product embodying the presently claimed invention appeared in the book as one of 30 products that have enjoyed great commercial success inside and outside of Japan starting from 1980.

Exhibit 2 is a DVD of a broadcast program from the Discovery Channel™ showcasing the "Hair Contact" product embodying the presently claimed invention. As required by MPEP 608.03, photographs of what is depicted in the DVD are also submitted herewith.

Exhibit 3 is an English language catalog of the "Hair Contact" product.

It is respectfully submitted that the Declaration (including Exhibits 1-3) establishes a strong showing of commercial success as a secondary consideration of patentability for the presently claimed invention.


In view of the foregoing and the arguments for patentability set forth in the Response filed on September 8, 2009, it is again respectfully submitted that the present invention as recited in independent claim 4 and claims 5-17 depending therefrom clearly patentably distinguishes over USP 4,456,019 ("Finamore") and US 2001/0037813 ("Ra") under 35 USC 103.

* * * * *

Allowance of the claims and the passing of this application to issue are respectfully solicited.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,


Douglas Holtz
Reg. No. 33,902

Frishauf, Holtz, Goodman & Chick, P.C.
220 Fifth Avenue - 16th Floor
New York, New York 10001-7708
Tel. No. (212) 319-4900
Fax No. (212) 319-5101

DH:jd
encs.